BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554

In the Matter of

Lifeline and Link Up Reform and

Modernization

Lifeline and Link Up WC Docket No. 03-109

Federal-State Joint Board on Universal

Service

CC Docket No. 96-45

WC Docket No. 11-42

Advancing Broadband Availability Through Digital Literacy Training WC Docket No. 12-23

COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING IN LIFELINE /LINK UP REFORM PROCEEDING

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April 2, 2012

I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these Comments in the Federal Communications Commission's (FCC or Commission) Further Notice of Proposed Rulemaking (FNPRM) in the Lifeline and Link Up Reform proceeding. The CPUC supports the Commission's efforts to reform and modernize the federal Lifeline program. In these comments California: 1) addresses concerns regarding the proposed establishment of a national eligibility database; 2) recommends that digital literacy training be part of the Lifeline Broadband Pilot Program to determine costs; 3) supports the addition of the Special Supplemental Nutrition Assistance Program for Women, Infants, and Children (WIC) to the federal program eligibility list; and 4) supports limiting Lifeline support to eligible telecommunications carriers (ETCs) that provide Lifeline service directly to subscribers. California also opposes AT&T's suggestion that the FCC allow incumbent local exchange carriers (ILECs) to choose whether to participate in the federal Lifeline program.

II. DISCUSSION

Section XII. A. Establishing an Eligibility Database

In the *Lifeline Reform Order*, the FCC established a national accountability database (also known as duplicates database) to detect and prevent duplicate support in

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¹ Lifeline and Link Up Reform and Modernization et al., Report and Order and Further Notice of Proposed Rulemaking, WC Dkt. Nos. 11-42 et al., CC Dkt. No. 96-45, FCC 12-11 (rel. Feb. 6, 2012) (Lifeline Reform Order).

the Lifeline/Link Up program. In the *FNPRM*, the FCC seeks further comment on whether the Commission should also establish a national eligibility database.

The FCC concludes that "establishing a fully automated means for verifying consumers' initial and ongoing Lifeline eligibility from governmental data sources would both improve the accuracy of eligibility determinations and ensure that only eligible consumers receive Lifeline benefits, and reduce burdens on consumers as well as ETCs."² The eligibility database would consist of a list of people who are enrolled in the various means-tested programs that automatically qualify each of those persons for Lifeline service. The FCC envisions an ETC or a state administrator, where applicable, directly accessing the database to determine customer eligibility. The FCC further concludes "that it is important to accelerate the adoption of a widespread, automated means of verifying program eligibility" and it directs the Wireline Bureau and the federal Lifeline administrator, the Universal Services Administrative Company (USAC), to take all necessary actions so that, as soon as possible and no later than the end of 2013, there will be an automated means to determine Lifeline eligibility for, at a minimum, the three most common means-tested programs through which consumers qualify for Lifeline.³

California has concerns about the following: 1) the privacy implications of such a national database; 2) the cost of implementing such a database at the national level; and 3) its impact on the ability of Lifeline subscribers and applicants to obtain resolution of any eligibility –related problems in a timely and uncomplicated manner.

² FNPRM at para. 403.

³ *Id*.

The California Constitution contains a right to privacy.⁴ Providing carriers with access to a list of the governmental means-tested programs in which a California Lifeline applicant is enrolled, including access to the applicant's social security number, could violate the applicant's privacy right. If the FCC does adopt a national eligibility database, carriers should be required to obtain express approval, in writing, from the applicant to access this program information.

Furthermore, California questions whether a national database is a cost effective reform. The cost of implementing and updating such a centralized database could be substantial, especially if various state programs are included in the national database. Similar to many states, the State of California is running a budget deficit and has no money to fund such an enterprise at this time. If the FCC implements a national database, it should not mandate state participation unless federal funding is provided for all or a substantial portion of the state costs. The federal government should provide the funding necessary to pay for the design, establishment, and maintenance of the electronic communications systems between state and federal agencies necessary to implement such a process.

Finally, the CPUC would oppose a national eligibility database if the result would mean a Lifeline applicant or subscriber would have to contact the FCC to seek recourse for any eligibility disputes. The relevant carrier or state commission should be the venue of first resort for consumers seeking resolution to eligibility disputes. Consumers should

⁴ Ca. Const. Art. 1, § 1.

not have to contact the FCC with eligibility-related problems. If a Lifeline applicant or subscriber has to seek solutions at the federal level, the process will be more burdensome for the applicant or subscriber. It is also questionable whether the Commission has the staff necessary to timely address consumer complaints and queries from 50 different states. This, in turn, would mean that state commissions should have access to the database to ensure accuracy of state-specific information.

Section XII. B. Advancing Broadband Availability for Low-Income Americans through Digital Literacy Training

In the *Lifeline Reform Order*, the FCC established a goal of ensuring the availability of broadband service for low-income Americans,⁵ and adopted a Lifeline Broadband Pilot Program to assess the costs of providing USF subsidies to low income consumers for broadband Internet access service. In the *FNPRM* the FCC states that "…barriers to broadband adoption also include lack of digital literacy, and a perception that the Internet is not relevant or useful." The FCC notes that there are numerous programs and entities currently providing digital literacy training. In the *FNPRM*, the FCC seeks comment on the use of universal service funding to address the barrier that lack of digital literacy creates to increased broadband adoption among low-income Americans.⁷

The CPUC appreciates the value of digital literacy training for consumers unfamiliar with the use of computers and the Internet. However, California recommends

⁵ FNPRM at para. 416.

⁶ *Id.*, at para. 416.

⁷ *Id.*, at paras. 416-447.

that the FCC wait until after completion of the Broadband Pilot Program before it decides whether to use USF monies to pay for digital literacy training. In 2008, the CPUC supported the FCC's proposal to institute a Broadband Pilot Program to determine the cost of paying for computers and monthly Internet access service for low-income subscribers prior to determining whether to permanently adopt such a program. The FCC should take the same approach with regard to the funding of digital literacy training. As the FCC notes, there are numerous entities now providing such training. Also, many computer manufacturers offer free training when a customer purchases the manufacturer's computer. Before deciding whether telecommunications customers also should pay to fund such training for low-income customers via the federal USF, the approximate cost and benefits of such a program should be determined. We therefore recommend that the FCC include digital literacy training as part of the Lifeline Broadband Pilot Program in order to determine the cost of such training.

Section XII. C. Limits on Resale of Lifeline-Supported Services

Pursuant to section 251(c)(4) of the Communications Act of 1934, as amended, ILECs have the duty to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. ⁹ As noted in the *FNPRM*, in 1996, the Commission concluded that all retail services are

⁸ Reply Comments of the California Public Utilities Commission and the People of the State of California in *Order on Remand and Report and Order and Further Notice of Proposed Rulemaking;* FCC 08-262, rel. November 5, 2008, at pp. 5-7, filed December 28, 2008.

⁹ 47 U.S.C. 251(c) (4).

subject to this resale obligation.¹⁰ The FCC further notes that in "situations where both the wholesaler and the reseller are ETCs, there is a risk that both the wholesaler and the reseller could seek reimbursement from the Fund for the same subscriber. Because ETCs submit line counts to USAC for reimbursement without identifying customer information, there is no way for USAC to determine whether both the wholesale provider and the ETC-reseller are seeking reimbursement from the Fund for the same subscriber."¹¹ In order to protect the program and reduce waste and abuse, the Commission proposes to allow ETCs to receive Lifeline support from USF only when they provide Lifeline service directly to subscribers. It seeks comment on this proposal.

The CPUC supports the Commission's proposal that if both wholesalers and resellers are ETCs, then only the ETC directly serving the Lifeline subscriber should be able to seek reimbursement from the Fund. This would appear to be a common sense approach to reducing or preventing duplicate reimbursement claims. In California, we require carriers seeking reimbursement from the state LifeLine fund to provide customer information, including telephone numbers. The CPUC uses this information to check for duplicate claims and to prevent carriers from seeking reimbursement for the same subscriber.

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¹⁰ *FNPRM* at para.448.

¹¹ *Id.*, at para 449.

Section XII. F. Adding Women, Infants, and Children Program to the Eligibility Criteria

The FCC has been urged by several commenters to add the federal Special Supplemental Nutrition Assistance Program for Women, Infants, and Children (WIC), administered by the Department of Agriculture, to the list of qualifying federal assistance programs for Lifeline. It seeks comment on whether adding WIC to the eligibility criteria will advance its goal of ensuring universal availability of phone service to low-income consumers.¹²

The CPUC supports adding WIC to the list of qualifying federal assistance programs for Lifeline. The WIC program is currently one of the qualifying programs included in our California LifeLine Program (California LifeLine). As of December, 2011, approximately 406,000 California Lifeline subscribers selected WIC under which to qualify for California LifeLine¹³. The CPUC also recommends that another meanstested program, the Healthy Families Category A Program (Healthy Families) be added to the list of eligible programs. Healthy Families is a low cost insurance program administered by the State of California's Managed Risk Medical Insurance Board. It provides health, dental and vision coverage to children of low-income families who do not have insurance and who do not qualify for free Medi-Cal. It is California's version of the State Children's Health Insurance Program (SCHIP), which is administered by the

¹² *Id.*, at para. 483.

¹³ California allows consumers to select more than one qualifying assistance program by which to qualify for the California LifeLine Program. Therefore, there will not be a one-to-one match between the number of customers enrolled in the program and the qualifying assistance program that was selected by the subscriber to qualify for California LifeLine.

United States Department of Health and Human Services and provides matching funds to states for health insurance to families with children. Federal funds provide two-thirds of the funding needed for Healthy Families program in California.

Section XII. J. Eligible Telecommunications Carrier Requirements

The FCC seeks comment on the suggestion by AT&T that the FCC allow incumbent wireline Lifeline providers to choose whether to participate in the federal Lifeline program. Under the FCC's current rules, ETCs are required to provide federal LifeLine service to qualifying low-income consumers. AT&T argues that wireline telephone companies are no longer the dominant provider of voice services, and thus should no longer be subject to this requirement. It notes that competitive service providers can choose whether to apply for ETC status and can choose where to offer federal Lifeline services.

The CPUC strongly opposes AT&T's proposal. First, the proposal is premature at best given the current state of the telecommunications market. Although the number of residential switched access lines continues to decrease, such service is still used by a substantial number of consumers nationwide. According to the FCC's most recent Local Competition Report, released in June 2010, over 64.523 million residential end-user switched access lines nationwide were in service. Nearly 60 million of these lines were provisioned by ILECs. ¹⁶

¹⁴ *Id.*, at para. 503.

¹⁵ 47 C.F.R. § 54.405.

¹⁶ See FCC Local Telephone Competition: Status as of June 30, 2010. Industry Analysis and Technology Division,

In California, as of June 2010, ILECs provisioned 7.6 million residential switched access lines. Non-ILECs in California provisioned only 2.8 million lines – inclusive of VoIP service.¹⁷ Approximately 1.5 million customers subscribe to California Lifeline, by far the majority of whom are served by ILECs. In California, LECs offering basic residential telephone service are required to provide Lifeline service. Accordingly, if the ILECs do not participate in the federal Lifeline program, the costs to California's LifeLine program could increase substantially. In 2010, the California service providers received approximately \$175 million in reimbursements from the federal low-income program.¹⁸ Ensuring universal access to telecommunications service is a shared responsibility between the federal and state governments and in California's view, interstate customers should continue to share in the cost of subsidizing Lifeline service.

Furthermore, ILECs are still carriers of last resort in California and in many other states. If ILECs are permitted to stop offering Lifeline service, low-income residents in many areas of the country may find themselves without a lifeline service provider and without access to affordable telecommunications.

III. CONCLUSION

California supports adding WIC and Healthy Families Category A to the federal Lifeline program eligibility list and supports limiting federal Lifeline support to ETCs that directly provide Lifeline service to subscribers. However, California has concerns

Wireline Competition Bureau, March 2011, Figure 4, p.5.

¹⁷ *Id.*, Table 9, p. 20.

¹⁸ Universal Service Monitoring Report, CC Docket No. 98-202, 2011, Table 1.12, p. 1-32

about establishing a national eligibility database because it raises issues of privacy for applicants, because of the costs of implementing such a database are unknown and because it would create additional burdens for subscribers who need resolution of any eligibility-related disputes. As to whether the FCC should use USF monies for digital literacy training, the Commission should include the training as part of the Lifeline Broadband Pilot Program in order to determine cost and then decide whether to make it a permanent part of the Lifeline Program. Lastly, the FCC should reject AT&T's proposal to allow ILECs to participate in the Lifeline program on a voluntary basis because it is premature.

Respectfully submitted,

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